

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND**

SYDELLE GOLDWURM,
Individually and on behalf of all others
similarly situated,

Plaintiff,

v.

AMERICAN REALTY CAPITAL TRUST,
INC., *et al.*,

Defendants.

Case No. 1:12-cv-03516-JKB

**DEFENDANTS REALTY INCOME CORPORATION AND TAU ACQUISITION,
LLC’S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and for the reasons set forth in the accompanying memorandum of law and the memorandum of law filed by co-defendants, American Realty Capital Trust, Inc., et al., both of which are incorporated by reference herein, Defendants Realty Income Corporation and its wholly owned subsidiary Tau Acquisition, LLC hereby move to dismiss with prejudice Plaintiff’s “aiding and abetting” claim for failure to state a claim upon which relief can be granted. This motion is submitted in the alternative to Defendants’ motion to stay this action filed on December 13, 2012 because this action is duplicative of a consolidated, earlier filed class action pending before Judge Audrey J. S. Carrion

in the Circuit Court of Baltimore City, Maryland (the “State Action”). Defendants earlier filed motions to dismiss the State Action.

Realty Income Corporation and Tau Acquisition, LLC respectfully request a hearing on this motion pursuant to Local Rule 105(6).

Date: December 19, 2012

Respectfully submitted,

/s/
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of December, 2012, a copy of the foregoing Motion to Dismiss, together with the accompanying Memorandum of Law, exhibits thereto and proposed order were served via ECF notification to all counsel of record.

/s/

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